In my opinion the fines imposed by the Magistrate ($25.00 and $10.00 respectively) were ludicrously inadequate, in view of the circumstances and the recent previous convictions.

I warned both Respondents that the Magistrate had the power to award imprisonment without the option of a fine and expressed the hope that he would do, if they come up again before him for similar offences.

I believe that both enhanced fines were paid on the spot by the Respondents!

Appeal allowed.

Sentences enhanced.

[REVISIONAL CIVIL JURISDICTION]
POYSER, C.J.
November 2, 1939.

RAMACHANDRAN
v.
KANDIAH alias SUBRAMANIAM.

[SELANGOR CIVIL APPLICATION No. 63 of 1939]

Medical Registration Enactment (Cap. 178) Ss. 5, 10—practitioner in native medicine—whether entitled to recover charges for treatment.

There is nothing in the Medical Registration Enactment (Cap. 178) to prevent a practitioner in native medicine, though not registered as a medical practitioner under the Enactment, from recovering reasonable charges for his services.

CIVIL REVISION.

Petitioner in person.

G. W. de Silva for Plaintiff-Respondent.

Cur. Adv. Vult.

Poyser, C.J.—There is no reason for dissenting from the Magistrate on any of his findings of fact. The only question that arises on this petition is whether the plaintiff, who is not registered as a medical practitioner, can recover charges for medical treatment from the defendant.

The plaintiff is the proprietor of the Ayurvedic Medical Hall at 72 Station Road, Sentul, Kuala Lumpur. He has a diploma from the Lanka Ayurvedic Medical College, Jaffna, Ceylon. The diploma (or a copy thereof) was not included in the record, but I assume it set out that the plaintiff was qualified as a practitioner in Ayurvedic medicine.

Section 5 of the Medical Registration Enactment (Cap. 178) provides that only Registered Medical Practitioners may recover in any Court charges for medical and surgical services, but section 10 specifically recognises the practice of native systems of therapeutics. This latter section is as follows:—

> "Nothing contained in this Enactment shall be construed to prohibit or prevent the practice of native systems of therapeutics according to Indian, Chinese or other Asiatic method."

Ayurvedic medical treatment is a well-known Asiatic system of therapeutics. It has been recognised as such by the Ceylon Courts, and I can see no reason why it should not be so recognised in the F.M.S. There is, therefore, nothing in the Medical Registration Enactment to prevent a practitioner in Ayurvedic Medicine from recovering reasonable charges for his services.

In this case the plaintiff's charges appear to have been very reasonable, and he was entitled to judgment on his claim.

I refuse to exercise any revisionary powers.

Petition refused.

[ORIGINAL CIVIL JURISDICTION]
GORDON-SMITH, Ag. J.A.
November 3, 1939.

RE CHIA KENG HOCK; EXPARTE PUSHPALINGAM.

[SELANGOR WAGE-EARNER'S ADMINISTRATION ORDER No. 25 of 1939]

Bankruptcy Enactment (Cap. 55) Ss. 78, 79—realisation of assets of bankrupt—application by creditor for order calling on Official Assignee to take action—procedure.

Before a creditor is entitled to apply for an order under Section 79 of the Bankruptcy Enactment calling upon the Official Assignee to take steps for the benefit of the creditors generally to get in and realise assets alleged to belong to a bankrupt, he should act under the provisions of Section 78 of the same Enactment.

MOTION.

F. A. Briggs for the applicant (Creditor).

K. R. Blackwell, Official Assignee, F.M.S., in person. Although applicant does not state on what authority he has made his application to Court, it is presumed that he has acted under Section 79 of Cap. 55, *i.e.* he is aggrieved by an act or decision of the Official Assignee. In his affidavit dated the 28th October 1939 the act or decision complained of is what he was told by his solicitor after the latter had had an informal meeting with the Official Assignee. He submitted that there had been no legal act or decision. He contended that as Section 78 immediately precedes Section 79, an aggrieved creditor should not have rushed to Court and taken action under Section 79 when a clear course of action is indicated in Section 78. This section states that the Official Assignee shall in

the administration of the property of a bankrupt have regard to any directions that may be given by resolution of the creditors at any general meeting and that the Official Assignee shall summon a meeting of creditors whenever requested in writing so to do by one-fourth in value of the creditors. He also submitted that certain information set forth in the petitioner's affidavit had been obtained by petitioner only a week or so before and had not been given to the Official Assignee for action and that this petitioner-creditor had acted without reference to the other 31 creditors.

Gordon-Smith, Ag. J.A.—This was an application by Motion on behalf of a creditor for an Order calling on the Official Assignee to take all necessary measures to get in and realize for the benefit of the creditors certain alleged assets. It was supported by an affidavit of the 28th October, 1939, by the Creditor.

The alleged assets were:—

(1) the debtor's interest under the Will of his father;

(2) the interest of the debtor (if any) in the estate of his mother; and

(3) proceeds of sale of the debtor's motor car.

At the conclusion of the argument, I dismissed the application with costs. My reasons for so doing were as follows:

Although there may be an inherent right in a creditor to move the Court for an order that the Official Assignee shall perform his duties, yet these duties are statutory and are contained in Part IV and elsewhere, of the Bankruptcy Enactment and specific provisions are made in section 78 as to the discretionary powers of an Official Assignee and for the control thereof. A creditor may require a meeting of creditors to be summoned at which these discretionary powers may be considered and an Official Assignee is bound to carry out any directions given by or at such meeting or, if he disagrees with such directions, he may himself apply to the Court for directions.

The creditor in question, instead of acting under this section, has rushed into Court because he disagrees with proposed or suggested action, or want of action by the Official Assignee. If aggrieved at any such action or want of action, he should have acted under this section.

As regards the alleged assets specified, the Official Assignee stated that prior to this application, he had had no knowledge or any information as to the debtor's motor car, and similarly he informed the Court that the debtor's mother had died about 25 years ago leaving, as far as he was then aware, no estate. As regards the debtor's interest under his father's Will, this Will was executed subsequently to the Wage-Earner's Administration Order having obviously been made in full knowledge thereof as specific provisions are made to protect the interests of beneficiaries in the event of bankruptcy. In actual fact there is a gift over, of a monthly allowance to the debtor, in the event of his bankruptcy, a contingency which had already happened. There is a contingent legacy to the debtor, of $1,000, payment of which is postponed for 10 years and the debtor may eventually and after a lapse of 20 years, become entitled to a share in the estate. There may be some realizable value in these contingent interests and if so, it is open to the creditors to direct the Official Assignee in regard thereto, under the section I have quoted.

Application dismissed with costs.

[APPELLATE CRIMINAL JURISDICTION]
MURRAY-AYNSLEY, J.
November 6, 1939.

ABDUL RAHMAN v. PUBLIC PROSECUTOR.

[PERAK MAGISTRATE'S CRIMINAL APPEAL No. 80 of 1939]

Evidence Enactment, Ss. 114 (b), 133—accomplice —meaning of—desirability for corroboration—Summary trials—Magistrate's duty.

The term "accomplice" includes all persons who have been concerned in the commission of an offence, whether they are concerned as principals or merely as accessories.

Once it is established that a person is an accomplice, it is the duty of the trial magistrate to consider the desirability for corroboration of his evidence. If the magistrate omits to address his mind to the necessity for corroboration, any conviction based on the uncorroborated evidence of the accomplice is liable to be quashed.

MAGISTRATE'S CRIMINAL APPEAL.

Appellant in person.

T. V. Brodie for the Public Prosecutor. The witnesses were not accomplices and there was nothing in the evidence to show that they were abetting or accessory to the offence of theft charged against the accused. It was only a matter of suspicion. In any case under Section 133 Evidence Enactment, a conviction based on the uncorroborated testimony of an accomplice is not illegal. Section 114 (b) requiring corroboration does not say that the Court must presume an accomplice to be unworthy of credit, but that it may presume it, it being for the trial court in all cases to decide whether it believes that accomplice without corroboration or not. In this case the magistrate found that he believed the witnesses. Though the magistrate did not apparently consider whether those witnesses were accomplices or not in name, he must be taken to